

Message Text

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INFO OCT-01 EUR-12 IO-10 ISO-00 CIAE-00 DODE-00 PM-03 H-02

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USIA-06 ERDA-05 DLOS-03 NSF-01 OES-03 NRC-05 OMB-01

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R 012000Z APR 75
FM SECSTATE WASHDC
TO AMEMBASSY BONN
AMEMBASSY LONDON
INFO USMISSION GENEVA

C O N F I D E N T I A L STATE 073148

GENEVA FOR FRENCH AND OXMAN, US DEL LOS

E.O. 11652: GDS
TAGS: PLOS, MNUC, TECH
SUBJECT: NUCLEAR SHIP LIABILITY - BRUSSELS
REF: BONN 4415

1. DURING MARCH 13-14 CONSULTATIONS IN BONN, FRG DEL
REQUESTED WRITTEN OUTLINE OF OPENING U.S. REMARKS ON BRU-
SSELS CONVENTION; AFTER THEY PRESSED THIS REQUEST, WE
AGREED TO PREPARE SUCH AN INFORMAL PAPER. WE HAVE
LIMITED OUTLINE TO MAJOR POINTS MADE IN OUR OPENING
REMARKS. IN LIGHT DELEGATION AND AMEMBASSY BONNVIEWS
THAT PAPER MAY FACILITATE FAVORABLE REVIEW IN FRG AND
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PARTICULARLY BE HELPFUL IN INFORMING FOREIGN MINISTRY OF

U.S. VIEWS, AMEMBASSIES BONN AND LONDON SHOULD HAND OVER OUTLINE IN PARA 4 TO HOST GOVERNMENTS ON AN INFORMAL BASIS, CLASSIFIED CONFIDENTIAL.

2. FOR BONN: REQUEST EMB, WHEN HANDING OVER PAPER, REMIND FRG OF OUR REQUEST FOR PAPER ANALYZING LEGAL ISSUES INVOLVED IN A WARSHIP RESERVATION. DELIVERY SHOULD BE MADE BOTH TO DR. BOULANGER (RESEARCH AND TECHNOLOGY MINISTRY) AND TO DR. BEEMELMANS (FOREIGN MINISTRY). IF HELPFUL, EMB MAY ALSO GIVE COPY TO DEFENSE MINISTRY, OR ASK BEEMELMANS TO DO SO.

3. FOR LONDON: DELIVERY SHOULD BE MADE TO F.D. BERMAN (FOREIGN MINISTRY-LEGAL) AND TO B. MILLER (MOD-NAVAL HOME

DIVISION), EMB MAY EXPRESS OUR THANKS FOR VERY HELPFUL COOPERATION OF UK DEL AT MARCH 13-14 TRILATERAL CONSULTATIONS IN BONN.

4. BEGIN QUOTE: INFORMAL OUTLINE OF OPENING REMARKS AS REQUESTED BY FRG DELEGATION.

A. SINCE THE TIME OF ITS NEGOTIATION, THE UNITED STATES HAS OPPOSED THE INCLUSION OF WARSHIPS IN THE BRUSSELS CONVENTION FOR SECURITY REASONS OF SIGNIFICANCE TO ALL NATO ALLIES. MOREOVER, THE INCREASING NUMBER OF NEGOTIATIONS AFFECTING NAVIGATION, AND THE INCREASING POLITICAL DIFFICULTIES ENCOUNTERED IN MULTILATERAL FORA INCREASE THE IMPORTANCE OF MAINTAINING A POSITION OF PRINCIPLE ON THIS ISSUE.

B. THE ENTRY INTO FORCE OF THE BRUSSELS CONVENTION CAN ACHIEVE DESIRED OBJECTIVES REGARDING MERCHANT SHIPPING ONLY IF IT BECOMES MORE WIDELY RATIFIED OR APPLIED IN PRACTICE. THIS MAY BRING INCREASING POLITICAL PRESSURE TO BEAR FOR ACQUIESCENCE IN THE APPLICATION OF THE BRUSSELS REGIME TO WARSHIPS. THUS, UNLESS THE WARSHIP PROBLEM IS SATISFACTORILY RESOLVED AT THE OUTSET, THERE WOULD APPEAR TO BE AN INHERENT CONFLICT BETWEEN THE ACHIEVEMENT OF WIDE ACCEPTANCE FOR THE BENEFIT OF MERCHANT SHIPPING AND THE AVOIDANCE OF THE INCREASED PRESSURE WITH RESPECT TO WARSHIPS THAT SUCH WIDE ACCEPTANCE MAY ENTAIL.

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CHANT SHIPPING AND THE AVOIDANCE OF THE INCREASED PRESSURE WITH RESPECT TO WARSHIPS THAT SUCH WIDE ACCEPTANCE MAY ENTAIL.

C. IT IS CONSIDERED THAT THE WARSHIP PROBLEM CAN AND SHOULD BE RESOLVED BEFORE THE FEDERAL REPUBLIC BRINGS THE BRUSSELS CONVENTION INTO FORCE IN ORDER TO MAINTAIN THE UNDERLYING POSITION OF PRINCIPLE AND BECAUSE SUCCESS-

FUL RESOLUTION OF THE PROBLEMS IN BOTH POLITICAL AND JURIDICAL TERMS MAY BE MORE DIFFICULT AFTER THE CONVENTION ENTERS INTO FORCE. MOREOVER, IT IS CONSIDERED THAT INTERNATIONAL ACTION, INCLUDING A DEPOSIT OF INSTRUMENTS, REGARDING THE CONVENTION WOULD BEST BE AVOIDED PENDING THE CONCLUSION OF THE CURRENT LAW OF THE SEA NEGOTIATIONS, AS SUCH ACTION AND NOTICE THEREOF COULD STIMULATE STATES TO RAISE THE ISSUE AT THE LAW OF THE SEA CONFERENCE. ACCORDINGLY, TAKING INTO ACCOUNT THE DESIRE OF THE FEDERAL REPUBLIC TO SEE THE EARLY ENTRY INTO FORCE OF A MERCHANT SHIP LIABILITY REGIME, AS WELL AS THE NEED TO AVOID STIMULATION OF DEBATE ON NUCLEAR SHIPS AT THE LAW OF THE SEA CONFERENCE, THERE WOULD APPEAR TO BE ADEQUATE TIME FOR FURTHER STUDY AND CONSULTATIONS ON THE BEST MEANS TO ACHIEVE A WARSHIP EXCLUSION FROM THE BRUSSELS REGIME. IN THIS CONNECTION,

WE BELIEVE THE UNITED STATES, THE FEDERAL REPUBLIC, THE UNITED KINGDOM AND THEIR ALLIES WILL BE IN A POSITION TO MAKE RELEVANT DETERMINATIONS WITHIN A REASONABLE PERIOD. WE ALSO BELIEVE THAT PRACTICAL ARRANGEMENTS REGARDING THE OTTO HAHN ARE POSSIBLE FOR THIS PERIOD.

D. ACCORDINGLY, WE PROPOSE ACTIVE CONSULTATION AND COOPERATION WITH A VIEW TO THE EARLY ACHIEVEMENT OF DESIRED OBJECTIVES REGARDING INTERNATIONAL LIABILITY RULES FOR NUCLEAR MERCHANT SHIPS AS WELL AS A WARSHIP EXCLUSION, AND REQUEST THAT THE FEDERAL REPUBLIC TO THIS END WITHHOLD RATIFICATION OF THE BRUSSELS CONVENTION.
END QUOTE. KISSINGER

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